

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Communications Assistance for Law
Enforcement Act)

CC Docket No. 97-213**REPLY COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc., on behalf of itself and its subsidiaries, (collectively referenced as "SBC") supports the position of various carriers¹ and the United States Telecom Association (USTA)² that the four punch-list items are not capabilities covered by CALEA as providing call identifying information. As the Court of Appeals for the District of Columbia noted, CALEA is unique in that Congress first gave the telecommunications industry the authority to define a technical industry standard which meets the requirements of the Act. The industry fulfilled this responsibility in adopting the J-Standard. As recognized by the Court, the Commission cannot alter the J-Standard without identifying its deficiencies. It is not sufficient simply to determine that additional items would promote the surveillance abilities of law enforcement. The law is clear that its parameters extend only to "call-identifying information." This term has been correctly defined in the J-Standard and further expansion to include the four punch-list items is not authorized by the law.

¹ See, e.g., Comments of Verizon (Verizon Comments), pp. 1-5; Comments of the Cellular Telecommunications Industry Association (CTIA Comments), pp. 11-18; Comments of Cingular Wireless LLC (Cingular Comments), pp. 6-10; Comments of BellSouth (BellSouth Comments), pp. 4-7; Comments of the Personal Communications Industry Association (PCIA Comments), pp. 7-11.

² USTA Comments, pp. 3-12.

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I. The Commission should defer to the technical expertise of the Telecommunications Industry Association (TIA)

The adoption of the J-Standard was based on a thorough and complete analysis undertaken over a period of years by the TIA with the participation of numerous entities, including the FBI and other law enforcement agencies. In developing this standard, TIA closely followed the explicit language and intent of Section 102(2) of CALEA which defines “call-identifying information” as “dialing or signaling information that identifies the origin, direction, destination or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier.” In applying this definition, TIA’s Engineering Subcommittee TR 45.2 adopted definitions for the terms “origin,” “direction,” “destination,” and “termination” based on industry practice and the clear meaning of those terms. Law enforcement, as well as the best systems engineers in the country, were involved in this process.³

SBC agrees with the TIA⁴ that these definitions, as they relate to the definition of “call-identifying information” contained in the Act, must remain unmodified. The record in this proceeding sustains the proposition that these terms reflect the meaning of the Act and are not technically deficient. This conclusion is further supported by the findings of the Court of Appeals. Absent unequivocal proof that these definitions are deficient, the Commission should defer to the technical expertise of the TIA.

³ TIA Comments, p. 5.

⁴ TIA Comments, pp. 5-6.

However, should the Commission seek to include the four punchlist items as “call-identifying information,” a position SBC contends is unsupported by the record, the Commission should delegate the standards development for these items to the TIA. As the TIA makes clear in its Comments,⁵ TIA’s Engineering Subcommittee TR 45.2 possesses the experience and technical ability necessary for the development of a technical industry standard which will support the objectives of CALEA.

II. While none of the four punchlist items relate to call-identifying information, post cut-through dialed digit extraction in particular is not “reasonably available” to the carrier.

This punch-list item would require carriers, both wireline and wireless, to provide to law enforcement any digits dialed after a call had been completed. Even if such an item was considered to be “call-identifying information,” which it clearly is not, the modifications required are both costly, and in the case of wireless carriers, problematic. As Cingular Wireless points out,⁶ the wireless industry currently does not utilize the tone detectors which would be necessary to comply with this requirement in its network architecture. The significant modifications which would be required, even if achievable, are unquestionably not reasonably available.

From a wireline carrier’s standpoint, the incorporation of this item in the technical industry standard is not only complex and costly, but raises technical issues as to how to contain this interception to the target’s underlying switch.

⁵ TIA Comments, pp. 7-9.

⁶ Cingular Comments, p 6.

In SBC's wireline operations alone, the cost involved ranges from \$5-10 million for hardware with an additional \$8-10 million for a switch platform which is not included in the identified software buyout. These figures result if rational capacity⁷ is required and the historical intercept activity per switch is experienced. Where there is heavy traffic, this dial tone detection feature is either automatically or manually curtailed to protect the standard speed of dialtone. In addition, manufacturer architectures vary in how tone detection occurs in the switch. Because of this disparity, if carriers were required to ensure that post connect digits are not lost in high volume situations, switches would need to be redesigned and the switch itself may need to be deloaded. This effort would entail a significant cost.

The FBI, in asserting that any modifications required to provide the punch-list items are reasonably achievable, references only those software costs which have been controlled;⁸ it does not address the hardware costs and costs associated with high volumes. While this feature may be considered to be of paramount importance to the FBI,⁹ it also is the punch-list items which most clearly fails to constitute call-identifying information and which fails to meet the reasonably available standard.

⁷ Rational capacity involves a wireline environment in which most of the switches serve a defined physical territory known as a wire center. These wire centers then serve as the basis for a subdividing of the FBI's countywide actual and maximum capacity numbers as they relate to the physical proximity of court ordered surveillances. If the countywide capacity number contained in the FBI's Final Capacity Notice were applied to individual wireline switches, the costs cited above would increase dramatically.

⁸ Remand Comments of Department of Justice and Federal Bureau of Investigation (FBI Comments), pp. 39-40.

⁹ FBI Comments, p. 18.

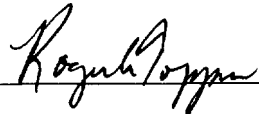
While law enforcement may in today's environment listen for content to touch-tone digits on the local loop, the provisioning of post-cut-through dialed digits via a CALEA-modified switch is simply not reasonably available where the switch does not currently contain this feature.

Conclusion

SBC encourages the Commission to heed the directives of the Court of Appeals. The four punch-list items do not constitute call-identifying information. Moreover, the J-Standard adopted by the industry with much deliberation is not deficient such that it is within the Commission's authority to expand the parameters of the standard to encompass additional capabilities. For this reason, SBC urges the Commission's endorsement of the J-Standard without modification.

Respectfully Submitted,

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December 6, 2000

Certificate of Service

I, Loretia Hill, do hereby certify that on this 6th day of December, 2000, a copy of the foregoing "Reply Comments" was served by U.S. first class mail, postage paid, to the parties listed on the attached sheets.

A handwritten signature in cursive script, appearing to read "Loretia Hill", written over a horizontal line.

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